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May 5, 2004

The Honorable Benson E. Legg
United States District Court Judge
United States District Court
for the District of Maryland
Third Floor, Room 340
101 W. Lombard Street
Baltimore, MD 21201

**RE: In the Matter of the Complaint of
Eternity Shipping Ltd., et al.
For Exoneration from or Limitation of Liability
Civil Action No. L-01-CV-0250**

Dear Judge Legg:

We represent third-party defendant American Bureau of Shipping ("ABS") in connection with the captioned matter and write to address a dispute which has arisen regarding the production by claimant/third-party plaintiff Tate & Lyle North American Sugars, Inc. ("T&L"), of two witnesses, Jeff Robinson and Robert Traven and certain documents. Counsel for Limitation Plaintiffs join in our request.

As Your Honor is aware, this matter involves claims arising from the collapse of a crane aboard the M/V LEON I while that vessel was in the process of discharging cargo at the Domino Sugar wharf on July 29, 2000. A limitation of liability proceeding is pending before Your Honor as well as several other actions. As part of its \$10,000,000.00 claim, as it applies to this particular dispute, T&L is seeking to recover the costs associated with the discharge of sugar at Chesapeake Bulk Stevedores, Inc. ("CBS") in the amount of approximately \$5,000,000.00, spanning the time following the casualty until the completion of repairs to the crane.

In response to a notice of deposition pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, T&L produced several witnesses. However, on the issue of the agreement between T&L and CBS and the substantial costs associated therewith, the witnesses deferred to Jeff Robinson, who we understand negotiated that agreement. That particular issue was encompassed in paragraph 20 of the notice of deposition which

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specified:

All consequential or business damages resulting from the loss of the use of crane No. 2. on July 29, 2000, which Tate & Lyle attributes to Limitation Plaintiffs , including, but not limited to: . . .

(b) Costs associated with discharging raw sugar at Chesapeake Bulk Stevedores, Inc. at Sparrows Point, and trucking the sugar to the Baltimore Domino facility;

To date, no witness has been able to address the particulars of the negotiations with CBS regarding the utilization of its facility.

In addition, on several issues encompassed within the notice of deposition regarding the calculation of T&L's claim, the witnesses also deferred to Robert Traven, the accountant retained to investigate, evaluation and prepare T&L's claim for "extra expenses" in the amount of approximately \$6,700,000.00(an amount which includes the previously mentioned stevedoring charges). We expect Mr. Traven to have factual knowledge as to the basis for many of the claimed expenses, many of which no witness has been able to address.

On April 21, 2004 (copy attached), we wrote to counsel for T&L, Jeffrey Asperger, Esq., to address the issue of the production of these witnesses. Having received no response to our letter, on April 27, 2004, we specifically noticed the depositions of these two individuals which were encompassed within Limitation Plaintiff's Rule 30(b)(6) deposition notice for Tuesday, May 4, 2004. In response to our notice, in Mr. Asperger's absence, we received a call from counsel's assistant who led us to believe that Mr. Asperger was agreeable to producing these two witnesses at a mutually agreeable time. Based upon that representation, we adjourned the depositions. On May 3, counsel advised that his assistant miscommunicated his instructions to us and, in fact, he is now objecting to the production of Mr. Robinson and Mr. Traven. It is for this reason, we are now just bringing this dispute to the Court's attention.

We have spoken to Mr. Asperger regarding these depositions and, even though we believe that Mr. Traven apparently is in possession of relevant facts concerning damages, we, as a compromise, have told Mr. Asperger that we are amenable to withdrawing our request for Mr. Traven's deposition with the understanding that such facts may be explored at the time of his deposition as an expert witness. In exchange, Mr. Asperger would make Mr. Robinson at a mutually convenient time. However, Mr. Asperger has advised that he is not agreeable to the foregoing and, therefore, we respectfully request that the Your Honor compel the attendance of Mr. Robinson for a deposition.

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The deposition of Mr. Robinson would not effect the remaining deadlines for discovery currently set by the Court.

We thank the Court for its consideration of the foregoing and stand ready to address the foregoing at the Court's convenience.

Very truly yours,

HILL RIVKINS & HAYDEN LLP


Robert G. Clyne

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cc: All counsel



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April 21, 2004

Via Telecopier: 312-856-9905

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Attention: Jeffrey J. Asperger, Esq.

Re: **In the Matter of the Complaint of
Eternity Shipping Ltd., *et al.*
For Exoneration from or Limitation of Liability
Civil Action No.: L-01-CV-0250
Our File No: 28005-RGC/MDW/JAS**

Dear Sirs:

Further to our conversation during the deposition of Mr. Fitzgibbon, we request that you produce both Jeff Robinson and Rob Traven for depositions. As you will recall, there were certain subjects on which Mr. Fitzgibbon, in his deposition, deferred to both of these gentlemen.

If you require a formal notice of deposition, please let us know. Otherwise, please advise us as to when the above-mentioned witnesses can be made available. Also, we request your advices regarding the following documents requested at the last deposition of Mr. Fitzgibbon:

1. Monthly Raw Sugar Stewardship Report (pages 573-4 of transcript) for the period 1/1/98 – 12/31/03.
2. Report showing the profitability of the raw sugar discharge operation for a period of one year prior to the casualty through and inclusive of one year after the new crane was installed and operable. If you will recall, Mr. Fitzgibbon indicated that these figures cannot be derived from the monthly manufacturing statements.

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Thank you for your anticipated cooperation.

Very truly yours,

HILL RIVKINS & HAYDEN LLP


Robert G. Clyne

/cb
28005047-ASPERGER

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